

## Remarks

### Claim Rejections Under 35 USC 112

Claims 1 and 11 are rejected as being indefinite.

The optional features "in particular pulpy" and "preferably with addition of salt, sugar or salt-like or sugar-like substances" have been removed from claim 1 as well as wording "in particular milk substitute drink" from claim 11.

Therefore, we respectfully believe the subject matter of the claims is clearly defined.

Claim 1 is rejected as being based on a disclosure which was stated to be not enabling.

According to our understanding, it is clear to those skilled in the art that the seeds or nuts are shelled. Therefore, we clarified claim 1 according to the accompanying claim by adopting wording "shelled seed or nuts" as suggested by the Examiner.

### Claim Objections

Claim 1 is amended to remove the second sentence.

### Claim Rejections Under 35 USC 103

Claims 1-10, and 12-16 are rejected as being unpatentable over Lynn.

The Examiner argued that acids would be known to cause coagulation of protein, e.g. adding acid to milk mixture resulting in a cheese product.

Therefore, adding an acid to the product of Lynn was alleged to be obvious.

We respectfully disagree with that conclusion.

The present invention provides an essentially creamy substance, which can be used as substitute for yogurt, curd cheese or fresh cheese products (see p. 5, lines 32 to 36 of the present specification).

According to our understanding, Lynn describes a high protein edible product, comprising e.g. extracted sesame meal, cottonseed meal and soybean meal.

However, those seeds and beans are provided as replacement for yeast for the leavening action (see col. 2, lines 38, 39 of Lynn).

In other words, the seeds and beans are added to dough for baking bread or the like (see col. 2, lines 48 to 53 and col. 2, lines 63, 64 of Lynn).

Consequently, the dough described by Lynn is always baked in an oven after its production (see e.g. col. 5, lines 68 to 71, col. 6, lines 48 to 52, col. 7, lines 24 to 26, col. 7, lines 48 to 49, col. 7, lines 74 to 75, or col. 8, lines 23 to 24 of Lynn).

The consistency of the final product proposed by Lynn is defined by the baking process, resulting in a solid bread or the like.

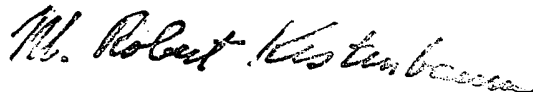
Therefore, the present invention's addition of an acidic liquid or an acidulant to a stirrable substance to obtain a firmer consistency would be senseless in combination with the product of Lynn, because Lynn's product will be baked.

Consequently, this combination is merely hypothetical and not obvious to a person having ordinary skill in the art.

Wherefore, consideration and allowance of the claims as amended is respectfully requested.

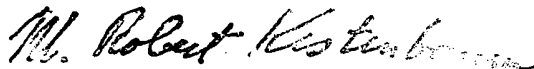
A two-month extension of time in which to respond to the outstanding Office Action is hereby requested. PTO Form 2038 is enclosed authorizing charging a credit card for the prescribed two-month Large Entity extension fee of \$410. Please charge any additional fees or credit any overpayments to Deposit Account 11-0665. A duplicate of this page is enclosed for this purpose.

Respectfully submitted,



M. Robert Kestenbaum  
Reg. No. 20,430  
11011 Bermuda Dunes NE  
Albuquerque, New Mexico 87111  
Phone (505) 323-0771  
Fax (505) 323-0865

I hereby certify this correspondence is being deposited as first class mail in an envelope with sufficient postage addressed to Mail Stop Amendment with Fee, Art Unit 1761, PO Box 1450, Commissioner for Patents, Alexandria, Va. 22313-1450 on August 26, 2003.

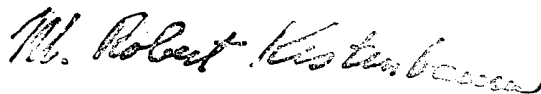


M. Robert Kestenbaum

Wherefore, consideration and allowance of the claims as amended is respectfully requested.

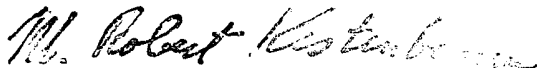
A two-month extension of time in which to respond to the outstanding Office Action is hereby requested. PTO Form 2038 is enclosed authorizing charging a credit card for the prescribed two-month Large Entity extension fee of \$410. Please charge any additional fees or credit any overpayments to Deposit Account 11-0665. A duplicate of this page is enclosed for this purpose.

Respectfully submitted,



M. Robert Kestenbaum  
Reg. No. 20,430  
11011 Bermuda Dunes NE  
Albuquerque, New Mexico 87111  
Phone (505) 323-0771  
Fax (505) 323-0865

I hereby certify this correspondence is being deposited as first class mail in an envelope with sufficient postage addressed to Mail Stop Amendment with Fee, Art Unit 1761, PO Box 1450, Commissioner for Patents, Alexandria, Va. 22313-1450 on August 26, 2003.



M. Robert Kestenbaum